IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

WP(C).No. 23309 of 2007(Y)

PETITIONER:

AISHATH THAHIRA,
D/O P.M.MOHAMMED, DARUL AJMEER, BIG NANGI,
P.O.MOGRAL, VIA. KUMBLA, KASARAGOD DISTRICT.

BY ADV. SRI.K.V.SOHAN
SMT.SREEJA SOHAN.K.

RESPONDENTS:
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1. **MEERAN KUNHI, S/O IBRAHIM,**
   ANZARI MANZIL, CHOOKRI ADMA,
   MANGALPADY, KASARAGOD TALUK.

2. **AISHA, W/O MEERAN KUNHI,**
   DO.

3. **AISHA, W/O IBRAHIM,**
   DO.

4. **ANSAR, S/O IBRAHIM,**
   DO.

5. **THE SUB INSPECTOR OF POLICE,**
   KASARAGOD.

BY ADV. SRI. D.KRISHNAPRASAD
BY GOVERNMENT PLEADER SRI. P.A. SALIM for R5

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.23309/2007 Y

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE INTERIM ORDER IN W.P.35375 OF 2003 DTD. 11/11/2003.**

EXT.P2: **COPY OF THE AGREEMENT ENTERED INTO BETWEEN THE PETITIONER AND 1ST RESPONDENT AND OTHER ACCUSED IN 498A CASE DTD. 23/02/2007.**

EXT.P3: **COPY OF THE COMPLAINT/PETITION SUBMITTED BY THE PETITIONER BEFORE THE 5TH RESPONDENT, DTD. 21/07/2007.**

EXT.P4: **COPY OF THE RECEIPT ISSUED BY THE 5TH RESPONDENT ON EXT.P3 COMPLAINT, DTD. 22/07/2007.**

/TRUE CPY/

P.A.TO JUDGE

KSS

K.BALAKRISHNAN NAIR & HARUN-UL-RASHID, JJ.

WPC NO.23309 OF 2007-Y

Judgment

Balakrishnan Nair, J.

The petitioner has approached this Court, seeking police protection to her minor child. Her grievance is that respondents 1 to 4 are trying to take away the child by force. Now, it is admitted that respondents 1 and 4 are abroad. But, the 3rd respondent, who is her mother-in-law and the 2nd respondent, who is the step mother of the child, may take away the child, is the present apprehension of the petitioner. She submits, as per Ext.P2 agreement, the father and mother of the child are entitled to have custody of the minor child alternatively for two weeks in each month. As long as the father was in India, he was taking the child, but after he has gone abroad, the child cannot be sent to the laps of the step mother, the second respondent. Therefore, the petitioner is not sending the minor child. But, it is apprehended that respondents 2 and 3 may, by force, take away the child form his school. So, the petitioner has preferred Ext.P3 representation before the police, seeking protection and thereafter, this Writ Petition is filed, seeking appropriate reliefs.

2. The learned Government Pleader upon instruction submitted that the police called the first respondent's brother and has warned him against the child

being taken away by force. The learned counsel for respondents 1 to 4 submitted that as per Ext.P2 agreement, the petitioner is bound to sent the child to his father's home even if his father is not there. It is pointed out that the grand mother of the child is very much there.

3. The apprehension of the petitioner that the child may be taken away by force, is not a ground to order police protection in advance. The dispute involved in this case is essentially a dispute to be resolved by the civil court or the family court as the case may be. If any body takes away the child by force, the petitioner can seek appropriate reliefs, by moving either the police or the appropriate forum. Subject to that right, the Writ Petition is dismissed.

K.BALAKRISHNAN NAIR,JUDGE

06.08.2007 **HARUN-UL-RASHID, JUDGE**

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